

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 73 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO

SEEMA PRADEEP KALRA

Versus

B K KATHURIA

Appearance:

MR TS NANAVATI for Petitioner

NOTICE SERVED BY DS for Respondent No. 1

MR SR DIVETIA APP for Respondent No. 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 19/06/98

ORAL JUDGEMENT

This petition is preferred by one Seema Kalra of Delhi, who is accused in forest offence No. N/FLG/31/97-98, alleged to have been committed under the jurisdiction of the Deputy Conservator of Forest, Valsad (South). It is alleged that the forest produce ie., Kher

Wood worth rupees two lacs was being transported by Truck No. HR-47-4678 being Tata make LTP 1612, registered in the name of the petitioner which has been seized by the forest officers and is lying in custody of the Deputy Conservator of Forests, Valsad (South).

2. The petitioner in the present petition has claimed that she had entered into a contract with one Doaba Palace Road Lines to transport potatoes from Khurja to Surat, and the truck in question was placed in possession of her driver Kuldeep Kumar. It is contended that at Khurja, said truck driver Kuldeep Kumar handed over the truck to an another driver Vijaysingh Karnailsingh with a view to attending some emergent situation. It is the claim of the petitioner that driver Kuldeep Kumar had placed truck in possession of driver Vijaysingh without the knowledge of the petitioner and without seeking her permission and even without informing her. Driver Vijaysingh did transport goods to Surat and made delivery there, however, it is alleged that thereafter the driver Vijaysingh without the knowledge and connivance of the petitioner, transported the illicit forest produce which has been confiscated by the forest officer, for which the aforesaid offence has been registered against the petitioner. Mr. Nanavati, the learned advocate appearing for the petitioner has relied upon the certificate of registration {Annexure "A" to the petition) to show that the truck in question has been registered in the name of the present petitioner whose permanent address has been noted as 8/8, Roop Nagar, Delhi and some temporary address has been noted as that of Buddhpur, Rewari (Haryana). Mr. Nanavati has submitted that though the petitioner has issued notice and has demanded copies of all the papers of investigation, the same has not been responded to. He has also submitted that the petitioner has not been given statutory notice either. He has further stated that the petitioner has not received any communication from the forest authorities. Mr. Nanavati has therefore submitted that the petitioner's truck should be released, pending investigation and confiscation proceeding, on suitable terms and conditions.

3. Mr. Divetia, the learned APP has contested the petition and has contended that the petitioner has been given show-cause notice and has also been sent intimation to remain present before the Forest officials, however, she has not replied to any of these notices. He has therefore submitted that pending investigation, the truck should not be released. After ascertaining from the record, Mr. Divetia has stated that all the notices have

been addressed to the petitioner at her temporary address at Rewari, Haryana. Mr. Divetia, after ascertaining from the officer; who is present in the Court, has made a statement that hereafter, all the notices to the petitioner will be sent to her at her permanent address at 8/8 Roop Nagar, Delhi. He has further assured that copies of all the documents relied upon by the forest officer will be given to the petitioner also. On the facts and in the circumstances of the case, it would be expedient to direct release of truck in favour of the petitioner on suitable terms and conditions. It is, therefore, directed that Deputy Conservator of Forests, Valsad (South) shall release the truck No. HR-47-4678 seized by him, in favour of the petitioner, subject to the final decision in the confiscation proceedings pending before him, on the following terms and conditions :-

- (a) The petitioner shall give Bank guarantee for a sum of Rs. 1,00,000/= (Rupees One lac only) within a period of four weeks from today and shall also give security to the satisfaction of the Deputy Conservator of Forests, Valsad (South) for a sum of Rs. 2,00,000/- {Rupees two lacs only}.
- (b) The truck shall not be transferred in any manner whatsoever or the possession thereof shall not be parted with, pending confiscation proceedings and for a further period of 15 days after the final order is made on the confiscation proceedings and is communicated to the petitioner.
- (c) The truck shall be maintained in road-worthy condition till the final order is passed in the confiscation proceedings. Its engine, chassis and colour shall not be changed.
- (d) The truck shall be produced before the concerned Dy. Conservator of Forest for inspection as and when called upon to produce.
- (e) In no circumstance, transport operation should be carried out beyond the limits of States of Punjab, Haryana, Rajasthan, Gujarat and Union Territory of Delhi.
- (f) The petitioner shall cooperate in the early disposal of the confiscation proceedings.

(g) The vehicle in question shall be surrendered to the concerned Dy. Conservator of Forests within 15 days from the date of order of confiscation; if any, unless otherwise ordered by the Appellate authority.

(h) The Bank guarantee/security given pursuant to this order shall be effective till the final disposal of the confiscation proceedings.

(i) The truck shall not be used or permitted to be used for illegal or unlawful purposes.

4. The petitioner shall within a period of three weeks from today give an undertaking to this Court to abide by all the aforesaid terms and conditions. A copy of which shall be furnished to the concerned Deputy Conservator of Forests.

5. A copy of this order be sent to the Regional Transport Officer, Rewari (Haryana) with an instruction not to register any transfer of the truck No. HR-47-4678 registered with it on 16th July, 1996.

6. Petition is allowed to the aforesaid extent. Rule is made absolute. There shall be no order as to costs.

Prakash*